

# Notice of Allowability

Application No.

09/965,644

Examiner

Teresa E. Strzelecka

Applicant(s)

BITENSKY ET AL.

Art Unit

1637

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed September 26, 2006.
2. ☒ The allowed claim(s) is/are 1,4-8,12-17,47-49 and 54.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>11/16/2006</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                      |
|  | 9. <input type="checkbox"/> Other _____  |

### EXAMINER'S AMENDMENT

1. This office action is in response to an amendment filed September 26, 2006. Claims 1, 3-8, 12-17 and 47-53 were previously pending. Applicants amended claims 5-8 and 48, and cancelled claims 3 and 50-53.
2. Applicants' amendments overcame the rejection of claims 5-8 and 50-53 under 35 U.S.C. 112, first paragraph, written description and the rejection of claims 17, 48 and 50-53 under 35 U.S.C. 112, second paragraph. No other rejections are pending.
3. Applicants' cancellation of claim 3 created a problem for the dependent claims 5-8. However, as indicated in the Interview Summary, claim 3 is reinstated as a new claim 54, and the dependence of claims 5-8 is amended to claim 54.
4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ronald Eisenstein on November 16, 2006.

The application has been amended as follows:

- Add new claim 54 as follows:

54. (new) The array of claim 1, wherein said microchannels each have a depth of 0.8 to 6.0 microns, a length of between 10 microns to 210 microns, said length including an entry portion for receiving said individual cell and an exit portion that said individual cell may pass through, said entry portion having

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an entry width of between 2.5 microns to 25 microns, and said exit portion having an exit width of between 0.5 microns to 7 microns.

- In claim 5, line 1, delete ---3--- after "claim" and substitute ---54--- therefor.
- In claim 6, line 1, delete ---3--- after "claim" and substitute ---54--- therefor.
- In claim 7, line 1, delete ---3--- after "claim" and substitute ---54--- therefor.
- In claim 8, line 1, delete ---3--- after "claim" and substitute ---54--- therefor.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa E. Strzelecka whose telephone number is (571) 272-0789. The examiner can normally be reached on M-F (8:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Teresa E Strzelecka  
Primary Examiner  
Art Unit 1637

*Teresa Strzelecka*  
11/22/06